MT LEGISLATIVE HISTORY

Chapter 306 1974

Bill (H) 1034 S _____ Original bill & hist. ___C

H. Committee on Education		S. Committee on Education	
Hearing Date(s) Feb 09	✓C	Hearing Date(s) Mar 02	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C	_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

EDUCATION COMMITTEE

February 9, 1974

The meeting was called to order at 8 a.m., with all members present except Representative Galt, who was excused.

House Bill 885 was discussed first. Mr. Bob Stockton said that the bill corrects a numbering error that should have been changed by the codifyer.

House Bill 826 was discussed. Representative Bardanouve, chief sponsor, explained that since he introduced the bill he has learned that it is unnecessary and he would like the committee to kill it.

House Bills 1007 and 1011 were discussed by Representative Bardanouve. They are companion bills dealing with executive and legislative interns. Representative Cox, Tom Behan, Mr. Jorgenson, Jim Kilbourne, Representative Murphy, J. J. Sullivan and Gary South testified as proponents of the bills. Parts of the bill, 1007, relating to the omission of Western Montana College, the qualifications of interns, the omission of the Auditor and inclusion of the Commissioner of Higher Education, having the wrong title for Montana Tech, and including the Clerk of the Supreme Court were discussed.

Representative Cox said that House Bill 1011 provides that the number of interns from each institution is based on the number of students enrolled in each. There was some discussion on whether a quota system should be in the law. Representative Bradley suggested that if one of the units doesn't fill their quota that position could be given to a student from another unit. Representative Menahan said that interns should be graduates of Montana high schools.

Representative Barrett, chief sponsor, explained that House Bill 1034 is an attempt to reduce the cost and time in hearings involving the dismissal of tenured teachers. He submitted the attached amendment. Lloyd Markell, Tom Schneider, John J. Sullivan and Maurice Hickey testified in support of the bill as amended.

The committee went into executive session to discuss several bills.

Representative Lynch moved that House Bill 826 DO NOT PASS. The motion was seconded and passed unanimously by those present.

The Chairman appointed a subcommittee to work on amendments to House Bills 1007 and 1011. Representative Bradley is Chairman, Representatives Cox and Lynch.

Representative Warfield moved that House Bill 885 DO PASS. The motion was seconded and passed unanimously by those present.

Representative Lynch moved that House Bill 1034 be amended as shown on the attached sheet, and AS SO AMENDED, DO PASS. The motion was seconded and passed unanimously by those present.

WITNESS STATEMENT

Name Jim McGarvey Date

Address Support ? X

Representing Oppose ?

Which Bill ? 1634 Amend ?

Comments:

Please leave prepared statement with the committee secretary.

☐ DO PASS
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED
☐ BE HELD OVER

STANDING COMMITTEE REPORT

19

Journal

MR.

We, your committee on

having had under consideration HOUSE Bill No. 1034

A BILL FOR AN ACT ENTITLED:- "AN ACT TO AMEND SECTIONS 75-5811 AND 75-6104, R.C.M. 1947, TO ALLOW A COUNTY SUPERINTENDENT OF SCHOOLS TO APPOINT A HEARING OFFICER TO HEAR CASES RELATING TO THE DISMISSAL OF TEACHERS UNDER CONTRACT AND THE TERMINATION OF TENURE TEACHERS; AND PROVIDING FOR APPEALS."

Respectfully report as follows: That HOUSE Bill No. 1034 be amended as follows:

amend the introduced bill, page 1, line 24, by striking the words "hearing officer" and inserting in lieu thereof the words "legal advisor";

further amend the introduced bill, page 1, line 24, by striking the words "shall make" and inserting in lieu thereof the words "may assist the superintendent in";

amend the introduced bill, page 2, lines 1 and 2, by striking the words "and present a proposed order to the county superintendent";

amend the introduced bill, page 2, line 14, by striking the words ", or hearing officer,";

amend the introduced bill, page 2, lines 24 and 25, by striking the words ", or hearing officer,";

amend the introduced bill, page 4, lines 1 through 3, by striking the following material "to act as a hearing officer who shall make findings of fact and reach conclusions of law and present a proposed order to the county superintendent" and insert in lieu thereof the words "as legal advisor who may assist the superintendent in finding of facts and reaching conclusions of law".

DO PASS

Chairman.

CONSIDERATION OF HOUSE BILL NO. 266: Provide for introduction of additional evidence in the appeal of controversies to the Superintendent of Public Instruction and clarifying the procedure for review of such controversies by the state courts.

Mr. Carroll Blend, attorney for the superintendent's office, presented the bill for Representative Yardley, sponsor. He said the bill would amend the section which concerns appeals to the superintendent of public instruction on school controversies and judicial action which follows such decisions by the superintendent.

Mr. Lloyd Markell, Montana Education Association, testified in support of the bill. He said if the state superintendent received an inadequate transcript from hearings held by the county superintendent, the state superintendent could call for additional documentation involved in the controversy, which does not exist at the present time. Either party could go into court. This would compel either party to take some action after the state superintendent renders a decision; the school board would not wonder if they could proceed to hire a replacement for a teacher that had been dismissed.

There was no opposition to the bill.

CONSIDERATION OF HOUSE BILL NO. 1034: Allow county superintendent of schools to appoint a hearing officer to hear cases relating to dismissal of teachers under contract and the termination of tenure teachers.

Mr. Lloyd Markell said the bill intended to correct a situation which exists when the matter of teacher dismissal arises out of tenure law. Now the county attorney is legal advisor to school board and also legal consultant to the county superintendent. He said when the bill was first presented, the county superintendent would have the discretion to appoint a qualified attorney to act as a hearing officer rather than have the county superintendent act as the hearing officer. He felt the bill should be amended to have consistency with having the county superintendent appoint an attorney as legal advisor rather than hearing officer.

Mr. Blend said the only legal advice a county superintendent needed was at hearings; almost every teacher has attorneys on both sides.

Mr. Tom Schneider, representing county superintendents of schools association, stated his support for the bill.

Mr. Jim Kenney also stated his support of the bill.

Representative Barrett, sponsor, gave his proposed amendments to the bill, which are shown on the standing committee report. He added the bill was to improve the procedure of dismissal of teachers.

Senator Breeden moved the adoption of the amendments submitted by Representative Barrett, seconded by Senator Vainio. The motion carried unanimously.

Senator Breeden moved and Senator Vainio seconded the bill AS AMENDED BE CONCURRED IN. The motion carried unanimously. Senator Gilfeather will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL NO. 806: Senator Klindt moved and Senator Breeden moved the bill BE CONCURRED IN. The motion carried unanimously. Senator Thiessen will carry the bill on the Senate floor.

DISPOSITION OF HOUSE BILL NO. 866: Senator Breeden moved and Senator Klindt seconded that bill BE CONCURRED IN. The motion carried unanimously.

DISPOSITION OF HOUSE JOINT RESOLUTION NO. 80: Senator Klindt moved and Senator Breeden seconded that bill BE CONCURRED IN. The motion carried with Senator Vainio opposed. Senator Klindt will carry the bill on the Senate floor.

ADJOURN:

There being no further business, the meeting was adjourned at 10:30 a.m.

P. J. GILFEATHER, CHAIRMAN

ROLL CALL

EDUCATION COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 3/2/74

NAME	PRESENT	ABSENT	EXCUSED
Sen. P. J. Gilfeather, Chmn.	X		
Sen. Paul Boylan, V. Chmn.		X	
Sen. J. W. Breeden	X		
Sen. Fred G. Carl	X		
Sen. B. J. Goodheart		X	
Sen. David James		X	
Sen. Herb Klindt	X		
Sen. William Mathers		X	
Sen. George McCallum	X		
Sen. Cornie Thiessen		X	
Sen. Leonard Vainio	X		

Each day attach to minutes

SENATE EDUCATION COMMITTEE AMENDMENTS TO

HOUSE BILL 1034

Amend the blue house bill in section 1, page 1, lines 20 through 25 by omitting the following material:

"<u>,except those under section 75-6104 relating to the termination of services of a tenure teacher and those under section 75-6107 relating to the dismissal of a teacher under contract. When appeals under these sections are taken to the county superintendent, he</u>"

and insert in lieu thereof the following:

". When appeals are made under section 75-6104 relating to the termination of services of a tenure teacher or under section 75-6107 relating to the dismissal of a teacher under contract, the county superintendent";

Further amend the blue house bill in section 1, page 2, line 2 by omitting the word "MAY" and inserting in lieu thereof the word "shall";

Further amend the blue house bill in section 1, page 2, line 2 after the word "IN" by inserting the word "preparing";

Further amend the blue house bill in section 1, page 2, line 2 by omitting the word "reach";

Further amend the blue house bill in section 2, page 4, line 6 after the word "WHO" by omitting the word "MAY" and inserting in lieu thereof the word "shall";

Further amend the blue house bill in section 2, page 4, line 6 after the word "IN" by omitting the word "FINDING" and inserting in lieu thereof the words "preparing findings"; and,

Further amend the blue house bill in section 2, page 4, line 7 after the first "OF" by omitting the words "FACTS AND REACHING" and inserting in lieu thereof the words "fact and".

to in section 2 [43-721] may have at least one intern. An additional five (5) positions may be chosen from applications submitted to the legislative council.

Section 5. There is a new section to be numbered 43-724 R.C.M. 1947, which reads as follows:

43-724. **Selection by schools.** The legislative interns shall be named by the presidents of the several colleges and universities. The students so selected may be enrolled in any program offered by the college or university.

Section 6. There is a new section to be numbered 43-725, R.C.M. 1947, which reads as follows:

43-725. **Intern qualifications.** The legislative interns must have the following qualifications:

(1) at least one (1) quarter of "state government" or its equivalent as a course of study at an institution of higher learning;

(2) reached at least the level of a junior at an institution of higher learning;

(3) exhibit the necessary degree of scholastic achievement, leadership, and involvement in community affairs; and

(4) preference shall be given to Montana high school graduates.

Section 7. There is a new section to be numbered 43-726 R.C.M. 1947, which reads as follows:

43-726. **Assignment of interns.** Each legislative intern is assigned to a legislator by the legislative council.

Section 8. There is a new section to be numbered 43-727 R.C.M. 1947, which reads as follows:

43-727. **Legislative council — establish guidelines.** Each legislative intern is subject to guidelines established by the legislative council.

Section 9. There is a new section to be numbered 43-728 R.C.M. 1947, which reads as follows:

43-728. **Interns responsible to sponsor.** Each legislative intern is directly responsible to his or her legislator.

Section 10. There is a new section to be numbered 43-729 R.C.M. 1947, which reads as follows:

43-729. **Program not mandatory.** An institution of higher learning may choose not to participate in the legislative intern program.

Section 11. There is a new section to be numbered 43-731, R.C.M. 1947, which reads as follows:

43-731. **Severability.** If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 12. There is a new section to be numbered 43-730 R.C.M. 1947, which reads as follows:

43-730. **Funding not obligatory.** The legislature shall not, under any condition, because of this act, be obligated to fund this internship program.

Section 13. This act is effective on its passage and approval.

Approved March 25, 1974

CHAPTER NO. 306

AN ACT TO AMEND SECTIONS 75-5811 AND 75-6104, R.C.M. 1947, TO ALLOW A COUNTY SUPERINTENDENT OF SCHOOLS TO APPOINT A LEGAL ADVISOR TO ASSIST IN CASES RELATING TO THE DISMISSAL OF TEACHERS UNDER CONTRACT AND THE TERMINATION OF TENURE TEACHERS; AND PROVIDING FOR APPEALS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-5811, R.C.M. 1947, is amended to read as follows:

"75-5811. **Controversy appeals and hearings.** The county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. *When appeals are made under section 75-6104 relating to the termination of services of a tenure teacher or under section 75-6107 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney at law to act as a legal advisor who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to the superintendent of public instruction under the provisions for appeal of controversies in this Title.* Furthermore, he shall hear and decide all controversies arising under:

(1) section 75-6315 or 75-6316 relating to the approval of tuition applications; *or*

(2) any other provision of this Title for which a procedure for resolving controversies is not expressly prescribed.

The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy which is made by the county superintendent shall be based upon the facts established at such hearing.

The decision of the county superintendent may be appealed to the superintendent of public instruction and, if it is appealed, the county super-

intendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction."

Section 2. Section 75-6104, R.C.M. 1947, is amended to read as follows:

"75-6104. **Termination of tenure teacher services.** Whenever the trustees of any district resolve to terminate the services of a tenure teacher under the provisions of subsection (1) of section 75-6103, they shall notify such teacher in writing before the first day of April of such termination. Any tenure teacher who receives a notice of termination may request, in writing ten (10) days after the receipt of such notice, a written statement declaring clearly and explicitly the specific reason or reasons for the termination of his services, and the trustees shall supply such statement within ten (10) days after the request. Within ten (10) days after the tenure teacher receives the statement of reasons for termination, he may request in writing a hearing before the trustees to reconsider their termination action. When a hearing is requested, the trustees shall conduct such a hearing and reconsider their termination action within ten (10) days after the receipt of the request for a hearing. If the trustees affirm their decision to terminate the teacher's employment, the tenure teacher may appeal their decision to the county superintendent *who may appoint a qualified attorney at law as legal advisor who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently,* either the teacher or the trustees may appeal to the superintendent of public instruction under the provision for the appeal of controversies in this Title."

Approved March 25, 1974

CHAPTER NO. 307

AN ACT TO CREATE A MONTANA WORK-STUDY PROGRAM TO BE ADMINISTERED BY THE BOARD OF REGENTS OF HIGHER EDUCATION.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 75-9101, R.C.M. 1947, which reads as follows:

75-9101. **Purpose.** It is the purpose of this act to help ensure that no resident of Montana be denied attendance at institutions governed, supervised or coordinated by the board of regents of higher education because of financial barriers; and further to provide low-cost supplemental assistance for all governing units within Montana. The legislature intends that any Montana resident wishing to gain admittance to such institutions in Montana, within necessary budgetary limitations as provided by law, shall be allowed the opportunity to earn in part or in total sufficient

money to pay the costs accompanying such attendance through employment by state and local governing units, and certain public interest organizations.

Section 2. There is a new section to be numbered 75-9102, R.C.M. 1947, which reads as follows:

75-9102. **Definitions.** As used in this act, unless the context otherwise requires:

(1) "Institution" means any public institution of post-secondary education governed, supervised or coordinated by the board of regents of higher education.

(2) "Student" means any Montana resident, as established by the board of regents of higher education, who has met the qualifications for enrollment as a full-time student at an institution, or who is presently enrolled as a full-time student in good standing, as determined by the institution.

Section 3. There is a new section to be numbered 75-9103, R.C.M. 1947, which reads as follows:

75-9103. **Montana work-study program.** The Montana work-study program is hereby established to be administered by the board of regents of higher education as provided by this act.

Section 4. There is a new section to be numbered 75-9104, R.C.M. 1947, which reads as follows:

75-9104. **Limitation on use of funds.** No less than seventy percent (70%) of the funds allocated to the program shall be used to provide job opportunities for students with demonstrated financial need. The remainder of the funds allocated to this program may be used to provide job opportunities on a basis other than financial need. Such other bases include but are not limited to:

(1) laboratory, teaching and tutorial assistantships requiring particular skills, and

(2) cases in which a student's family cannot demonstrate financial need but in which the student has a desire to contribute toward his education through employment.

Section 5. There is a new section to be numbered 75-9105, R.C.M. 1947, which reads as follows:

75-9105. **Funds supplemental to other funds.** All funds allocated through this program are supplemental in nature and are not meant to replace existing federal and state student financial assistance funds, or any other funds that would otherwise be appropriated for student assistance.

Section 6. There is a new section to be numbered 75-9106, R.C.M. 1947, which reads as follows:

75-9106. **Administration.** The board of regents of higher education shall promulgate rules for the allocation of program funds among the institutions.